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Rachel Killean

Victims, Atrocity and International Criminal Justice: Lessons From Cambodia
Abingdon, UK: Routledge, 2018; 246 pp.; ISBN 978-1-138-73776-1 (hardback)

Reviewed by: Peter Manning, University of Bath, UK

On November 16 2018, the Extraordinary Chambers in the Courts of Cambodia (ECCC) delivered verdicts of genocide and crimes against humanity for two former Khmer Rouge leaders, a moment widely thought to mark the culmination of the work of the court. The ECCC has occupied a novel place within the wider landscape of international criminal justice, operating as an UN backed ‘internationalised’ institution within Cambodia’s domestic court system, working between domestic Cambodian and international criminal law (ICL), and appointing both domestic and international judicial staff across its organs. Over twelve years of work, and despite a principally retributive focus and mandate, the ECCC has also come to integrate and offer unique avenues for victim participation and the potential to award forms of reparation to victims’ groups. In *Victims Atrocity and International Criminal Justice*, Killean offers a lucid, careful and textured analysis of the contested place and experiences of victim participation at the ECCC, documenting the challenges, successes, and indeed failures of the ECCC process.

The first three chapters of *Victims, Atrocity and International Criminal Justice* contextualise the ECCC within the wider landscape of scholarship and practice in ICL, situating the nascent centrality of victims within past failures to accommodate them in ICL interventions, the emergence and development of victim tropes in transitional justice, and the precedent of enhanced victim participation at the ICC. In doing so, Killean demonstrates the need to appreciate the reflexive relationship between scholarship and practice in these fields. Killean proceeds to locate the ECCC within wider international and domestic political histories, noting the interests and conflicts between the UN, Royal Government of Cambodia that produced but also circumscribed the mandate of the ECCC, and, therefore, the universe of formal victims made possible thereupon. As a contribution to our understanding of the ECCC more broadly, Killean’s treatment of these histories is significant for two reasons. Firstly, it recognises patterns of victimisation that the ECCC renders politically invisible, and which scholarship on Cambodia’s transitions tends to neglect. Secondly, the book is not distracted by – but acknowledges – debates over political interference at the ECCC that have come to dominate coverage of the case. Rather, Killean recognises that ‘politics’ is constitutive of ICL interventions, rather than a pathology of Cambodian culture that law would otherwise be immune to.

The ensuing chapters stake out the core contribution of the book. Killean’s central concern is the ‘gap’ between the ‘imaginary victim’ of ICL discourse and the lived, concrete realities and experiences of victims within the ECCC process. In the context of wider evolving norms that centre victims’ rights in ICL scholarship and practice, Killean offers an invitation to consider the dislocation between what idealised images and invocations of victimhood can do in legitimating ICL interventions, and the potential ways that victim constituencies can actually be marginalised by the work conducted in their name. Chapters four and five offer a ‘thicker’ description of the emergence of the Civil Party system at the ECCC, a form of victim participation not initially envisaged or accounted for in the mandate of the court. Killean paints the picture of an unfolding process, in which judicial staff navigated the pressures arising from varied legal traditions, norms, and interests to draft a set of rules shaping victims’ roles in the ECCC process. Killean shows how, as the work of the ECCC proceeded, judicial staff winnowed the entitlements of individual victims in the name of trial expediency, highlighting instructive tensions

between prosecuting crimes on the scale at hand and the limitations of a mechanism that was poorly resourced in respect of the role it had come to (over) promise its purported beneficiaries.

In the final chapters of *Victims Atrocity and International Criminal Justice*, Killean carefully draws on fieldwork data with legal practitioners, civil society staff, and members of victim civil parties to appraise the complexity of the lessons of the ECCC, retaining a commitment to highlighting the successes of the court as well as its failures. Killean notes the central role that civil society organisations have played in supporting the court, often acting as forms of surrogate outreach and victim support. Moreover, Killean highlights the vital role played by NGOs in lobbying for the inclusion of forms of suffering that were at risk of neglect in the ECCC prosecutions, including the gendered harm of forced marriage under the Khmer Rouge, or targeting of ethnic minority communities, both recognised in the most recent verdicts of crimes against humanity and genocide. In the penultimate chapter, Killean treats the perspectives of victim civil parties with due care and sensitivity. Killean acknowledges moments of secondary victimisation, arising from the exclusion of applicant voices from cases, disappointment arising from poorly managed expectations and miscommunication, as well as a more general frustration and ferment among victims' groups at the length and cost of proceedings. Against this, Killean highlights a sense of approval among many victim participants within the ECCC process, derived from feelings of mutual recognition and acknowledgement that should be attributed directly to the (albeit flawed) civil party victim participation system.

The importance of *Victims Atrocity and International Criminal Justice* is that it shows the contingency of the ECCC victim participation and reparations mechanisms. Killean captures the sense of an institution whose story was authored on contested terms as it unfolded, pulled in different directions by competing interests, as well as on practical and pragmatic necessities. This sense of contingency is vital in the context of a wider legalism in scholarship and practice that tends to suppress questions of origin and social context in its appreciation of how institutions are created, operate, and are received. What this permits is an analysis that does not condemn the ECCC but rather shows that, for victims, the court could have done much more. The nuance of these findings is important for our appreciation of the case at hand, but will also provide instructive lessons for scholarship and practice in ICL more broadly.

In the context of the flurry of commentary and scholarship that will invariably accompany the wane of the ECCC life cycle, *Victims Atrocity and International Criminal Justice* will stand out as a key contribution to accounts of Cambodia's experience of ICL, with valuable lessons beyond the case for those working on victim participation and reparations. The book should be considered essential reading for scholars and practitioners in ICL, transitional justice, and would complement both postgraduate and undergraduate curricula in law, socio-legal studies, and criminology.